

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kenneth Lomar Harrison,

Civ. No. 11-1454 (PAM/FLN)

Plaintiff,

v.

ORDER

Church of St. Margaret-Mary,
and Ward Hamlin,

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Franklin L. Noel dated November 30, 2011 (Docket No. 9), and on Plaintiff’s subsequent Motion for Default Judgment (Docket No. 10). In the R&R, Magistrate Judge Noel recommended that the Court dismiss the case for lack of prosecution because Plaintiff had failed to take any action in the case despite the Court’s Order that he do so. (See Nov. 4, 2011, Order (Docket No. 8) (ordering Plaintiff to take certain actions, including notifying Defendants of their obligation to make an appearance, and file a motion for default judgment if no appearance was entered)).

Plaintiff’s Motion for Default Judgment is an apparent attempt to comply with his obligations under the Order. However, as this Court has repeatedly informed Plaintiff, before he can secure a default judgment against either of the Defendants in this matter, he must satisfy the Court that he has properly served his Complaint on the Defendants. Thus, the Court has twice requested that Plaintiff file a proof of service of the Complaint on the Defendants. Rather than file such proof of service, Plaintiff first attempted to file proof of

his employment and other related documents. The Court did not accept those documents for filing, however, and again instructed Plaintiff to file proof of service of the Complaint on the Defendants. In response, Plaintiff filed a “Certificate of Service of Conventionally Filed/Sealed Documents” (Docket No. 12), which lists “documents to be filed and served” as “1. Proof of service to/for complaint” and “2. “Summons to/for plaintiff (dates for filing report and recommendation.” In addition, the document lists as “those served by U.S. Mail” this Court’s Calendar Clerk, Ms. Suzanne Ruiz. There are no other documents attached to this Certificate, however.

Plaintiff fundamentally misunderstands his responsibilities in this case. This Court must ensure that Plaintiff served his Complaint on the Defendants before the Court can enter default judgment against those Defendants. Thus, Plaintiff must file with the Court some document, whether the executed summons or some other proof of service, that shows that he provided Defendants with a copy of his Complaint. If he fails to file proof of service of his Complaint on the Defendants within 10 days of the date of this Order, this matter will be dismissed pursuant to the Magistrate Judge’s recommendation.

Accordingly, **IT IS HEREBY ORDERED that**, should Plaintiff fail to file proof of service of the Complaint on the Defendants within 10 days of the date of this Order, this matter will be dismissed for lack of prosecution.

Dated: January 5, 2012

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge